

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIFFORD JAMES SCHUETT,

Defendant.

Case No.: 2:14-cr-364-JAD-GWF

Order
(Docs. 157, 158, 159, 161, 163, 165)

Defendant Clifford James Schuett is represented by counsel, and it has been repeatedly explained to him that the court will not consider motions that he files personally because Local Rule IA 10-6(a) states that “A party who has appeared by attorney cannot while so represented appear or act in the case. An attorney who has appeared for a party shall be recognized by the Court and all the parties as having control of the client’s case.” Mr. Schuett was reminded of this rule and the court’s practice during a hearing on February 17, 2015, and in more than a half dozen orders denying his personally filed motions. *See* Docs. 28, 38, 54, 58, 85, 91, 141, 152, 153.

Nevertheless, Mr. Schuett persists. Since my last reminder, he has personally filed another petition for writ of habeas corpus, a sixth request to postpone his sentencing, a motion for review of his medical issues, a motion for reconsideration, another motion for a new judge, and another motion to withdraw his guilty plea. Docs. 157, 158, 159, 161, 163.

I deny without prejudice each of these pro se motions because Mr. Schuett is represented by counsel. Although he states that his lawyer refuses to file his motions on his behalf, leaving him no choice but to file them himself (over and over again making the same arguments that have been many times rejected by this court), I remind Mr. Schuett yet again that his lawyer is an officer of this court with responsibilities to file only meritorious, properly supported motions. Her job is not merely to be his scribe and file anything he wants her to file. She is bound by the rules and procedures of this court, and she must independently evaluate whether she may and should file the motions that Mr. Schuett desires. **If Mr. Schuett believes he requires some sort of action from**

1 **this court, he must consult with his lawyer, Rebecca Levy, Esq., who may then file the**
 2 **appropriate motion. I will continue to deny motions he personally files (instead of having his**
 3 **lawyer file them) because he has a lawyer who can file appropriate motions on his behalf.**

4 Mr. Schuett's petition for writ of habeas corpus is also denied for the additional, independent
 5 reason that this prosecution is not the appropriate venue for seeking habeas relief. I have informed
 6 Mr. Schuett of this procedural defect many times (*see, e.g.*, Docs. 116, 153), and I know that he
 7 understands this because he has filed three other matters in this court based on the very same
 8 allegations in his most recent petition. *See* Doc. 157 and *compare with* 14-cv-0131-JAD-PAL
 9 (*Bivens* action dismissed; appeal dismissed); 14-cv-1645-JAD-CWH (*Bivens* action, claims
 10 dismissed with leave to amend; appeal pending); and 15-cv-253-RFB-GWF (habeas petition
 11 pending).

12 His renewed request to withdraw his guilty plea (Doc. 165) is also denied for the very same
 13 reasons I rejected this request previously. *See* Doc. 116. Mr. Schuett has not persuaded me that my
 14 prior order should be reconsidered. I maintain that his plea was knowing, intelligent, voluntary, and
 15 supported by a sufficient factual basis, and I intend to proceed with his sentencing hearing on April
 16 7, 2015, a date Mr. Schuett agreed to when we were in court just last month.

17 Finally, in addition to filing motions on a near-daily basis despite his representation by
 18 counsel, Mr. Schuett also continues to send letters to the court. *See, e.g.*, 14, 41, 45, 48, 56, 62, 67,
 19 69, 86-88, 97, 99, 106, 112, 122, 124, 125, 135, 139, 148, 155, 156, 162, and 166. Mr. Schuett is
 20 reminded again (*see* Doc. 152 (minutes)) that the court will not respond to, or consider requests for
 21 relief presented in, letters. Requests for relief must be presented by motion filed by counsel for Mr.
 22 Schuett because he is represented by counsel. Mr. Schuett is reminded that letters to the judge will
 23 be disregarded and requests for relief contained in letters will not be acted upon.

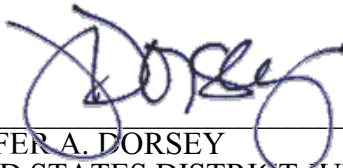
24 Accordingly, IT IS HEREBY ORDERED THAT defendant Clifford James Schuett's:

- 25 • Petition for Writ of Habeas Corpus (**Doc. 157**) is **DENIED without prejudice**;
- 26 • Motion to Postpone Sentencing (**Doc. 158**) is **DENIED**;
- 27 • Motion for Review of Medical Issue (**Doc. 159**) is **DENIED**;
- 28 • Motion for District Judge to Reconsider (**Doc. 161**) is **DENIED**;

- Motion for Change of Judge Due to Conflict of Interest (**Doc. 163**) is **DENIED**;
- Motion to Withdraw Guilty Plea is (**Doc. 165**) is **DENIED**.

IT IS FURTHER ORDERED THAT counsel for Mr. Schuett, **Rebecca Levy, Esq., with the Federal Public Defender's Office, is hereby directed to provide Mr. Schuett with a copy of this order and to file a notice with the court confirming that Mr. Schuett was provided with a copy of this order.**

DATED March 18, 2015.



JENNIFER A. DORSEY
UNITED STATES DISTRICT JUDGE